

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA
AMMENDING USE PERMIT, UP-88-36, AT 1200 PARK STREET/2407 SAN
JOSE AVENUE

WHEREAS, on March 19, 1979, the Planning Board approved a one-year Use Permit (U-79-3) for the sale and installation of automobile tires at 1200 Park Street. The use permit conditions reveal that even in 1979, the City was concerned about the potential impact of the use on Park Street. The 1979 use permit includes conditions that require that all automobile parking necessary to support the business be confined to the property (condition #2), that parked cars be limited in duration (condition #3), that all work on cars will occur within the building (condition #4), and no cars will be parked overnight on the premises (condition #7); and

WHEREAS, on January 28, 1982, the Zoning Administrator extended the Use Permit to be valid for a five year period to expire on June 18, 1984; and

WHEREAS, on January 30, 1989, the Planning Board approved a new Use Permit (U-88-36) for the site for Big O Tires. The 1989 use permit describes the use as a continuation of a non-conforming use for automotive repair. The 1989 use permit includes all of the prior conditions from 1979, in substantially the same form, but adds a new condition requiring that the applicant “find an alternative long term parking site for customer cars, as well as for employees” within 60 days; and

WHEREAS, On May 10, 1990, the City sent a letter to Henry C. Cohen indicating that the use was not in compliance with at least two of the conditions regarding parking and the requirement to acquire an “alternative long term parking site;” and

WHEREAS, on January 22, 2013, attorney Michael Notaro, on behalf of his client Art Thoms (owner of Washboard V Laundromat at 1198 Park Street), sent a letter of complaint regarding the operations of Big O Tires at 1200 Park Street. The alleged violations were related to three of the 1988/89 Use Permit (UP88-36) conditions governing the use of the property by Big O Tires, including Big O’s failure to secure an off-site parking lot; and

WHEREAS, on April 29, 2013, Anagha Dandekar Clifford, attorney for Big O, sent a letter to Michael Notaro addressing the issues raised. A two-month survey of availability of off-site parking lots was provided. The off-site parking lot survey did not yield any results, and Ms. Clifford described the new trial valet service Big-O instituted every Saturday to minimize Big-O’s impact on street parking within the business district. Big O implemented the valet service in May of 2013; and

WHEREAS, in the fall of 2013, City staff received several faxes from Art Thoms and a letter from Mr. Notaro detailing continued violations described in the January 22, 2013 letter. On November 26, 2013, Ms. Clifford stated the October 28, 2013 violations were the exception and not the rule. She stated the Saturday valet service had been extended to a daily service as an alternative to the off-street parking requirement. On December 5, 2013, Mr. Notaro copied city staff on a letter to Ms. Clifford acknowledging certain improved Big O behavior as well as lapses in ideal behavior. Mr. Notaro encouraged continued and more thorough compliance; and

WHEREAS, on March 12, 2014, Big O submitted an application to amend its 1988 use permit, specifically to remove condition #2 related to an off-street parking lot, and to revise condition #1 related to work outside the structure. This application was suspended in the summer when the nearby Party Warehouse property was put on the market. Big O explained it wanted to pursue the purchase of the Party Warehouse property to gain compliance with the off-street parking lot condition. Over the course of the summer and fall, these negotiations to purchase the property were not completed; and

WHEREAS, in March 2015 correspondence, Mr. Notaro noted the continued violation of no left turns onto San Jose Avenue and Big O client and employee parking in metered spaces; and

WHEREAS, on July 13, 2015, the Planning Board held a public hearing to consider Big O's request to amend its existing Use Permit. The Planning Board reviewed the material, held a public hearing, discussed various options, and continued the matter to the November 9, 2015 meeting. On November 9, 2015, the Planning Board amended several of the Use Permit Conditions; and

WHEREAS, Shortly after the Planning Board's November 9, 2015 meeting, the owners of the Big O franchise at 1200 Park Street purchased the property at 1835 Oak Street in the M-2 General Industry Zoning District. The site provides a large off-street parking area and a large building that is in the process of being remodeled to relocate the entire operation. Big O operators at 1200 Park Street subsequently changed their name to Big Discount Tire Pros. They intend to operate at both locations until the end of their lease in July, 2017; and

WHEREAS, on August 4, 2016, the City of Alameda received a petition signed by 21 residents within the vicinity of the 1200 Park Street site. The petition requests a public hearing to review the existing use permit for 1200 Park Street with the intention of considering an expiration date on the permit when the current tenant vacates the property within the next year. They list three reasons for consideration of termination of the current use permit, including the size of the lot, the nature of the business and the incompatibility of the use; and

WHEREAS, the lease at 1200 Park Street expires in July, 2017, and Big Discount Tire Pros anticipate moving to 1835 Oak Street at that time; and

WHEREAS, the Planning Board held a public hearing on the use permit at 1200 Park Street on November 28, 2016, to consider amendments to, and compliance with, the use permit and has examined pertinent maps, drawings, and documents; and

NOW THEREFORE BE IT RESOLVED THAT, the Board has made the following findings:

1. The proposed use, as conditioned below, is incompatible with other land uses in the general neighborhood area, in that it has failed to meet the off-street parking requirement which has been a requirement since 1988.
2. The site for which the use is proposed does not have adequate parking provided in the vicinity.
3. The use will adversely affect other property in the vicinity upon compliance because of the unmet off-street parking conditions.

THEREFORE BE IT FURTHER RESOLVED that the Planning Board of the City of Alameda hereby approves amended UP-88-36, subject to the following conditions:

1. All outdoor parking areas shall be cleared of all cars on stationary or stabilizer jacks during evening hours and weekend hours when the business is closed.
2. The applicant shall continue to work to locate and secure a long-term parking site for customer cars, as well as for employees. Once a site is secured, the applicant shall notify the Community Development Department that this condition has been fulfilled.
3. Applicant's business vehicles(s) shall be stored on the site, not on adjacent residential streets.
4. The site plan, indicating proposed and existing landscaping, treatment of garbage area and area for old and used tires, the number and placement of tire displays during business hours, and signage shall be subject to Design Review, except no additional public notice to adjacent property is necessary. Applicant shall submit pertinent materials no later than February 17, 1989.
5. Applicant shall retain the sign directing customers to turn right toward Park Street from the San Jose Avenue exit to alleviate traffic impacts on surrounding residential areas.
6. No recapping or retreading of tires on the premises.
7. No testing of vehicles in residential areas.

8. This use permit and the non-conforming use of the land for automobile repair shall terminate on July 30, 2017.
9. Hold Harmless and Indemnification Agreement The developer/applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, or City Council relating to this project. The City shall promptly notify the developer/applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.